IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.211 of 2003

Date of Decision: 29th December, 2005.

Jagdish Kumar Sharma **Petitioner**

Versus

Secretary H.P. Vidhan Sabha and others **Respondents**

Coram

The Hon'ble Mr. Justice V.K. Jhanji, J.

The Hon'ble Mr. Justice Surjit Singh, J.

Whether approved for reporting?[1]

For the petitioner: **Mr. G.D. Verma, Senior Advocate with Mr. Romesh Verma, Advocate.**

For the respondents: **Mr. K.D. Sood, and Mr. B.N. Gupta, Advocates for respondent No.1.**

Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Dy. A.G. for respondents No. 2 and 3.

Mr. Lovnesh Kanwar, Advocate, for respondent No.4.

V.K. Jhanji, J. (Oral)

In this writ petition the petitioner is seeking writ in the nature of mandamus directing the respondents to correct his date of birth in his service record. The date of birth of the petitioner in service record is entered as 11.5.1964. According to petitioner, his

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[1] Whether reporters of Local Papers may be allowed to see the judgment?

actual date of birth is11.5.1966 and so the same is required to be corrected.

Application to correct the date of birth was filed 15 years after the petitioner had joined service. Regarding date of birth and correction thereof, specific provision has been made under Rule (7.1) of the Himachal Pradesh Financial Rules, 1971 which provides that a declaration of age made at the time of or for the purpose of entry into Government service, shall as against the Government servant in question, be deemed to be conclusive unless he applies for correction of his age as recorded within 2 years from the date of his entry into government service. It further provides that in case matriculation certificate is available, the date of birth recorded in the certificate will be deemed to be correct age.

The matter has further been clarified in H.P. Government Order issued under these very rules vide Finance Department Office Memorandum No. FIN (C) B (1)-5/85 dated 10.9.1991 that applications for correction of date of birth submitted within two years from the date of entry into service are to be examined and decided promptly and those made after two years are to be rejected forthwith.

Admittedly, the application filed by the petitioner for correction of his date of birth was much beyond the period of 2 years and therefore, it was required to be rejected forthwith. In the presence of the rules as afore-stated, respondent No.1 has not committed any error in rejecting the application of the petitioner for correction of his date of birth in his service record.

In regard to the relief sought against respondents No.2, 3 and 4 for correction of date of birth, it is only to be noted that application in this regard was rejected by the said respondents on 5th July, 1988 and the present writ petition has come to be filed by the petitioner to challenge the said order in 2003. Therefore, the writ petition against respondents No.2, 3 and 4 is clearly barred by delay and latches.

In view of the above, writ petition is dismissed. No costs.

In view of the dismissal of the writ petition, all pending application shall also stand dismissed.

(V.K. Jhanji), J.

December 29, 2005 (ss) **(Surjit Singh), J.**